


UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH DAKOTA  
SOUTHERN DIVISION

**FILED**  
DEC 30 2010  
  
CLERK

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**Barbara Staples, as Personal  
Representative of the Estate of  
Daniel Staples, deceased,**

Case No. 09-4090

**Plaintiff,**

**MOTION TO SEAL**

**vs.**

**Bradley C. Thaemert, M.D., and the  
Surgical Institute of South Dakota, a  
South Dakota corporation,**

**Defendants.**

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Plaintiff Barbara Staples, through her counsel, hereby moves to seal the following pleadings filed with this motion: (1) Petition to Approve Wrongful Death Settlement, and (2) Order Approving Wrongful Death Settlement and Sealing Petition and Order. The request to seal is based upon the following:

1. Plaintiff and Defendants have agreed to settle all claims in this wrongful death action on the condition that all parties keep the terms of the settlement confidential.
2. Plaintiff and Defendants have agreed that the plaintiff will move to seal all pleadings filed in connection with her request to approve the wrongful death settlement and have further agreed that the Court can grant this motion without further notice or hearing.

3. Plaintiff desires to keep the terms confidential to avoid unwanted publicity about a private financial matter. Publicity may lead to unwanted requests for financial assistance as well as solicitations from a variety of individuals who may wish to offer financial management and investment services that plaintiff and her family do not desire.

4. Defendants also desire confidentiality. Defendants continue to practice medicine in the community. They settled this case without any admission of fault and are concerned that publication of the terms of the settlement could be misconstrued by members of the general public and improperly harm their standing in the community.

For the above reasons, plaintiff respectfully requests that the Court grant her motion to seal the (1) Petition to Approve Wrongful Death Settlement, and (2) Order Approving Wrongful Death Settlement and Sealing Petition and Order.

DATED: \_\_\_\_\_

12/29/10

**MALTERS, SHEPHERD & VON HOLTUM**

By: \_\_\_\_\_

James E. Malters (SD #1089)

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**AND**

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**ATTORNEYS FOR PLAINTIFF**

### CERTIFICATE OF SERVICE

James E. Malters, one of the attorneys for Plaintiffs, hereby certifies that on this 29 day of Dec. 2010, I caused the following document(s):

- Motion to Seal
- Petition to Approve Wrongful Death Settlement
- Proposed Order Approving Wrongful Death Settlement and Sealing Petition and Order

to be delivered to the Clerk of Court in paper form pursuant to Local Rule 7.1 and to be delivered electronically to the following:

Mark W. Haigh  
DAVENPORT, EVANS, HURWITZ & SMITH, LLP  
206 West 14th Street – P.O. Box 1030  
Sioux Falls, SD 57101-1030

*Attorneys for Defendants*

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800 LaSalle Avenue, Suite 2800  
Minneapolis, MN 55402-2015

*Attorneys for Plaintiffs*

Dated: 12/29/10

  
James E. Malters